

<b>First Action Interview Pilot Program Pre-Interview Communication</b>	<b>Application No.</b> 10/599,618	<b>Applicant(s)</b> DROUILLARD ET AL.	
	<b>Examiner</b> Casey S. Hagopian	<b>Art Unit</b> 1615	Page 1 of

**-The MAILING OR NOTIFICATION DATE of this communication appears on the cover sheet with the correspondence address -**  
 THE SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE **ONE MONTH OR THIRTY (30) DAYS**, WHICHEVER IS LONGER, FROM THE MAILING OR NOTIFICATION DATE OF THIS COMMUNICATION.

**This time period for reply is extendable under 37 CFR 1.136(a) for only ONE additional MONTH.**

**This communication constitutes notice under 37 CFR 1.136(a)(1)(i).**

Applicant must, within the time period for reply, file: (1) A letter requesting not to have a first action interview; (2) A reply under 37 CFR 1.111 waiving the first action interview and First Action Interview Office Action; or (3) An Applicant Initiated Interview Request Form (PTOL-413A) electronically via EFS-Web, accompanied by a proposed amendment or arguments, and schedule the interview within 2 months from the filing of the request. A failure to respond to this communication will be treated as a request not to have an interview. If applicant waives the First Action Interview Office Action, the instant Pre-Interview Communication is deemed the first Office Action on the Merits. The next subsequent Office action may be made final if appropriate. See MPEP 706.07(a).

#### Disposition of Claims

- 3) ☒ Claim(s) 1, 3-14 and 16-18 is/are pending in the application.  
     3a) Of the above claim(s) 6-14, 16-18 is/are withdrawn from consideration.
- 4) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 5) ☒ Claim(s) 1 and 3-5 is/are rejected.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 7) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 8) ☐ The specification is objected to by the Examiner.
- 9) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 10) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 11) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

#### Contact Information

Examiner's Telephone Number: (571)272-6097  
 Examiner's Typical Work Schedule: 9:00 am - 5:00 pm Monday, Wednesday and Friday  
 Supervisor's Name: Wax Robert  
 Supervisor's Telephone Number: 571-272-0623

#### Attachment(s)

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| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)<br>2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)<br>3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/3/2006 2/9/2007 12/3/2009</u> | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date <u>20100309</u><br>5) <input type="checkbox"/> Notice of Informal Patent Application<br>6) <input type="checkbox"/> Other: _____ |
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<b>First Action Interview Pilot Program Pre-Interview Communication</b>	<b>Application No.</b> 10599618		<b>Applicant(s)</b> DROUILLARD ET AL.	
	<b>Examiner</b> Casey S. Hagopian		<b>Art Unit</b> 1615	Page 2 of

**Notification of Rejection(s) and/or Objection(s)**

#	Claim(s)	Reference(s) (if applicable)	Rejection Statutory Basis	Brief Explanation of Rejection
1	1 and 3	A	102(b)	Claims 1 and 3 (see Abstract and Example 2) Teaches coating carbohydrate particles with soy protein.
2	1, 3-5	N	102(b)	Claims 1, 3-5 (see Example 8). Soy protein is in the amount of about 5.925% of the 2 <sup>nd</sup> coating composition and no animal protein is included in said coating composition. Note that 0% reads on the "less than 1%" limitation of claim 5.
3	1, 3, 5	B	102(b)	Teaches a nutrient in particulate form encapsulated by an agent such as wheat gluten flour (See claim 1 of reference). Regarding claim 2, "nutrient" is defined to encompass hormones, enzymes, pigments, lipids, plasma proteins, inorganic salts, vitamins (see

**Expanded Discussion/Commentary**

2		Wheat protein is also taught as a coating material (see page 6, 2 <sup>nd</sup> para. and claim 8). Regarding claim 3, the core or "seed" includes lactic acid bacteria and one or more starch, lactose, oligosaccharides, glycoalcohols, calcium gluconate, calcium lactate and gluconic acid (see page 5, 2 <sup>nd</sup> para.)
3		col. 2, lines 31-34). No animal protein is present in the encapsulating agent, thus reading on "less than 1%" in claim 5 (see Example 6).

<b>DATE:</b> 3/9/2010	/Carlos A. Azpuru/ Primary Examiner, Art Unit 1615	
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